

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN RE: AIR CARGO SHIPPING SERVICES
ANTITRUST LITIGATION

MDL No. 1775

BENCHMARK EXPORT SERVICES, et al.,

Plaintiffs,

v.

CHINA AIRLINES, LTD., et al.,

Defendants.

06-MD-1775 (JG) (VVP)

ECF CASE

10-CV-0639 (JG) (VVP)

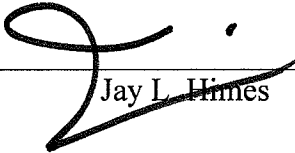
**DECLARATION OF JAY L. HIMES IN SUPPORT OF PLAINTIFFS' OPPOSITION TO
THE OBJECTIONS OF AIR INDIA, CHINA AIRLINES, LTD., EVA AIRWAYS CORP.,
AND MALAYSIA AIRLINES TO THE SEPTEMBER 22, 2010 REPORT AND
RECOMMENDATION OF MAGISTRATE JUDGE POHORELSKY**

I, JAY L. HIMES, state as follows:

1. I am a member of the law firm Labaton Sucharow LLP ("Labaton"), with offices at 140 Broadway, New York, NY 10005. My firm is one of four named Co-Lead Counsel in this action.
2. I submit this declaration in opposition to the *Benchmark* defendants' objections to the September 22, 2010 report and recommendations of Magistrate Judge Pohorelsky.
3. Attached are true and correct copies of the following:

- (a) Exhibit A – Joint Application of Malaysia Airlines and Northwest Airlines, Inc., Docket OST-2000-6791 (D.O.T. Jan. 13, 2000);
- (b) Exhibit B – Article 22 of the 1946 Chicago Convention on International Civil Aviation, 61 Stat. 1180, T.I.A.S. 1591; and
- (c) Exhibit C – U.S. Dep’t of State, 11 Foreign Affairs Manual 723.2-2(C), *available at* <http://www.state.gov/documents/organization/88317.pdf>.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 19th day of October, 2010, at New York, New York.



Jay L. Hines

CERTIFICATE OF SERVICE

I, Jay L. Himes, certify that on October 19, 2010, I caused a true and correct copy of the Declaration of Jay L. Himes in Support of Plaintiffs' Opposition to the Objections of Air India, China Airlines, Ltd., Eva Airways Corp., and Malaysia Airlines to the September 22, 2010 Report and Recommendation of Magistrate Judge Pohorelsky, to be served through this Court's ECF System on all participating counsel and to the following parties via Federal Express:

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Dated: New York, New York
October 19, 2010

/s/ Jay L. Himes
Jay L. Himes